

1 AN ACT relating to tax increment financing and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 65.490 is amended to read as follows:

4 As used in KRS 65.490 to 65.499, unless the context otherwise requires:

- 5 (1) "Agency" means an urban renewal and community development agency of a taxing  
6 district located within a county containing a consolidated local government or a city  
7 of the first class, established under KRS Chapter 99; a development authority  
8 located within a county containing a consolidated local government or a city of the  
9 first class established under KRS Chapter 99; a nonprofit corporation located within  
10 a county containing a consolidated local government or a city of the first class; or a  
11 designated department, division, or office of a county containing a consolidated  
12 local government or of a city of the first class;
- 13 (2) "Development area" means an area no less than one (1) square mile, nor more than  
14 six (6) square miles, designated in need of public improvements by a local or state  
15 government in a county containing a consolidated local government or a city of the  
16 first class, a project area as defined in KRS 99.615, or a public project as defined in  
17 KRS 58.010 in a county containing a consolidated local government or a city of the  
18 first class. "Development area" includes an existing economic development asset;
- 19 (3) "Increment" means that amount of money received by any taxing district or the state  
20 that is determined by subtracting the amount of old revenues from the amount of  
21 new revenues in any year for which a taxing district or the state and an agency have  
22 agreed upon under the terms of a contract of release or a grant contract;
- 23 (4) "Local government" means a county containing a consolidated local government or  
24 a city of the first class;
- 25 (5) "New revenues" means the revenues received by any taxing district or the state from  
26 a development area in any year after the establishment of the development area;
- 27 (6) "Old revenues" means the amount of revenues received by any taxing district or the

1 state from a development area in the last year prior to the establishment of the  
2 development area;

3 (7) "Project" means any urban renewal, redevelopment, or public project undertaken in  
4 accordance with the provisions of KRS 65.490 to 65.497, any project undertaken in  
5 accordance with KRS 99.610 to 99.680, any project undertaken in accordance with  
6 the provisions of KRS Chapter 58, or any "public project" as that term is defined in  
7 KRS 58.010 undertaken by a nonprofit corporation located within a county  
8 containing a consolidated local government or a city of the first class;

9 (8) "Release" or "contract of release" or "grant contract" means that agreement by  
10 which a taxing district or the state permits the payment to an agency of a portion of  
11 increments or an amount equal to a portion of increments received by it in return for  
12 the benefits accrued to the taxing district or the state by reason of a project  
13 undertaken by an agency in a development area;

14 (9) "Taxing district" means a consolidated local government, a county containing a city  
15 of the first class, a city of the first class that encompasses all or part of a  
16 development area, or the state, but does not mean a school district; and

17 (10) "Pilot program" means a tax increment financing program or a grant program  
18 created by an agency within a consolidated local government or a county containing  
19 a city of the first class which shall exist for a period of twenty (20) years, and may  
20 be extended for a period not to exceed an additional eighteen (18) years as  
21 provided in Section 2 of this Act~~[after which time it shall continue only after~~  
22 ~~reauthorization by the General Assembly].~~

23 ➔SECTION 2. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO  
24 READ AS FOLLOWS:

25 (1) A pilot program may be extended for a period not to exceed an additional  
26 eighteen (18) years in connection with the issuance of the bond by the Kentucky  
27 Economic Development Finance Authority having a stated maturity date not to

1 exceed thirty (30) years from the date of issuance if:

2 (a) The bond will be supported in part by contributions made by:

3 1. A local government of not less than ten million eight hundred  
4 thousand dollars (\$10,800,000) per year during the term of the bond,  
5 pursuant to a binding contract with the borrower of the proceeds of  
6 the bond; and

7 2. A public university or an affiliate of the public university which is  
8 located within a local government of not less than three million five  
9 hundred thousand dollars (\$3,500,000) per year during the term of the  
10 bond, pursuant to a binding contract with the borrower of the  
11 proceeds of the bond; and

12 (b) The tax increment financing program or grant program contains provisions  
13 requiring that:

14 1. The borrower of the proceeds of the bond use all revenues of the  
15 borrower, in excess of those revenues used to pay the borrower's  
16 operating expenses, capital expenditures, and the regularly scheduled  
17 debt service on the bond, to redeem the bond prior to the stated  
18 maturity date;

19 2. a. The borrower apply all excess revenues to the debt service at  
20 least every thirty-six (36) months; and

21 b. If it is the position of the borrower of the proceeds of the bond  
22 that the application of all excess revenues to the debt service  
23 jeopardizes the project, the borrower shall present an alternative  
24 payment plan for that thirty-six (36) month period to the Capital  
25 Projects and Bond Oversight Committee for approval;

26 3. In each fiscal year the total combined contribution made by the public  
27 university or the affiliate of the public university, local government,

1 and the borrower of the proceeds of the bond be no less than eighty  
2 percent (80%) of the increment for that fiscal year;

3 4. If the local government imposes a local option sales tax, all revenues  
4 generated by the imposition shall be allocated by the local government  
5 to the retirement of the bond; and

6 5. No further revenues under the tax increment financing program or  
7 grant program be remitted to the borrower of the proceeds of the bond  
8 upon the earlier of the stated maturity date of the bond or the payment  
9 in full of the bond.

10 (2) The borrower of the proceeds of the bond shall submit a report to the Governor  
11 and the Capital Projects and Bond Oversight Committee on or before November  
12 1, 2017, and annually thereafter regarding the operations and financial condition  
13 of the borrower, including the amount of payments made by the public university  
14 or an affiliate of the public university, the local government, and the borrower of  
15 the proceeds of the bond.

16 (3) Within ninety (90) days from the earlier of the date the bond is paid in full or the  
17 extended tax increment financing agreement ends, an evaluation of the total  
18 cumulative incentive amount paid to the borrower of the proceeds of the bond  
19 from the state participation since the inception of the tax increment financing  
20 agreement shall be made and a report delivered to the Interim Joint Committee  
21 on Appropriations and Revenue by the Department of Revenue. Notwithstanding  
22 KRS 131.190, the report shall disclose the total cumulative incentive amount  
23 received by the borrower of the proceeds of the bond.

24 (4) (a) If the total cumulative incentive amount received by the borrower of the  
25 proceeds of the bond from the state participation since the inception of the  
26 tax increment financing agreement, as reported by the Department of  
27 Revenue, exceeds three hundred fifteen million dollars (\$315,000,000), the

1           public university or the affiliate of the public university, the local  
2           government, and the borrower of the proceeds of the bond shall reimburse  
3           the Commonwealth the amount exceeding three hundred fifteen million  
4           dollars (\$315,000,000).

5           (b) The amount exceeding three hundred fifteen million dollars (\$315,000,000)  
6           shall be repaid as follows:

7           1. The public university or the affiliate of the public university shall pay  
8           twenty-one percent (21%) of the amount;

9           2. The local government shall pay fifty-eight percent (58%) of the  
10           amount; and

11           3. The borrower of the proceeds of the bond shall pay twenty-one percent  
12           (21%) of the amount.

13           (c) The amount exceeding three hundred fifteen million dollars (\$315,000,000)  
14           shall be paid in full within ten (10) years of the last payment toward the debt  
15           service of the bond or the maturity of the bond, whichever occurs first.

16           (d) All payments required by paragraph (b) of this subsection shall be deposited  
17           in the Kentucky permanent pension fund established in KRS 42.205 to be  
18           appropriated by the General Assembly.

19           ➔Section 3. Whereas it is imperative that negotiations for some tax increment  
20 financing agreements be reviewed as quickly as possible, an emergency is declared to  
21 exist, and this Act takes effect upon its passage and approval by the Governor or upon its  
22 otherwise becoming a law.